Remarks

Claims 1-3, 7-10 and 12-15 are pending in this application. Claims 4-6 have been withdrawn in the previous amendment consistent with the Examiner's election requirement being made final. Claim 11 was cancelled in the previous amendment. It was noted that Claims 3, 9 and 10 were previously designated as "Original" which was in error. Each of Claims 3, 9 and 10, consistent with amendments made during the international phase of the present application should have been designated as "Previously presented." This change has been effected in the current amendment. Applicants' attorney apologizes for any inconvenience this may have caused. The currently pending claims are believed to correctly reflect their status consistent with international phase amendments and national phase amendments.

All pending claims stand rejected under 35 U.S.C. 103(a) over Watson et. al. (U.S. 6,235,754 B1) in view of Bosserelle (U.S. 4,740,432) and JP 03251520. Applicants respectfully traverse this rejection and request reconsideration.

Applicants respectfully contend the combination of references applied by the Examiner does not provide one skilled in the art a teaching or suggestion that supports the judicious selection and use of specific elements from the prior art with an expectation of success to achieve the presently claimed combination. The individual prior art references generally contain a broad range of variables within their definitions and nothing to suggest a selection and use of a single element from each of those references in combination. It is Applicants' position that a *prima facie* case of obviousness has not been established against the presently claimed invention.

Watson et. al. generally discloses methods and compositions for treating animals and humans for controlling infestation by arthropods and helminths by administering a 1,4-diaryl-2-fluoro-2-butene or 1,4-diaryl-2,3-difluoro-2-butene compound having the structural formula and definitions recited in the reference. As provided in this reference, there is a significant list of optionally defined substituents at each of the variable positions on the compound having structural formula I.

At column 4, lines 54-67 and column 5, lines1-37 there is a disclosure of a host of various parasites against which the compositions and methods are said to be useful as well as a listing of animals and humans on which the methods and compositions are said to be useful.

At column 5, line 49, spinosads are mentioned along with numerous other parasiticides including anthelmintics, endectocides, ectoparasiticides, insect growth regulators and chitin synthesis inhibitors. The spinosads are mentioned within the group referred to as gamabutyric acid inhibitors.

It should be recognized that no special significance or preference is expressed

in Watson for the inclusion of a second active agent, much less particularizing a class or a named second active agent to be combined with the 1,4-diaryl-2-butene or 1,4-diaryl-2,3-difluoro-2-butene compound that are the mandatory active agents for inclusion in the composition and the methods of Watson et. al.

In a similar manner, shampoo is listed at column 5, line 64 along with numerous other forms of compositions that are said to be suitable for topical administration to animals and humans. At column 6, lines 3-11, oral, intragastric, intraruminal and parenteral routes of administration are also mentioned. Once again, no preference is mentioned in Watson et. al. for a particular route of administration or a compositional form for a particular route of administration.

Applicants respectfully contend the Watson et. al. reference contains no teaching or suggestion that supports the selection and use of a particular formulation type for administration by particular route of administration as a preference over any other formulation type or route of administration. Further, there is nothing in Watson et. al. to suggest the particular active agents, formula I, could or should be omitted in favor of an alternative active agent. Rather, the disclosure in Watson et. al. clearly suggests the inclusion of a second active agent drawn from a vast number of parasiticides is merely an option. No particular significance or preference is expressed for the inclusion of a second active agent or which of the vast classes or specific active agents might be preferred.

Bosserelle generally discloses cosmetic compositions, one of which is a shampoo, that contain "triglycerides of fatty acids." The problem that Bosserelle is addressing is a substitute for animal origin fatty substance compositions such as mink oil, marmot oil and green turtle oil for cosmetic composition uses. Bosserelle's disclosed solution to this problem is to utilize, or substitute, vegetable origin fatty substance compositions. The composition that Bosserelle discloses as useful in cosmetics as a substitute for the animal origin fatty substance is a vegetable origin fatty substance composition containing: 1) fatty acid triglycerides; 2) fatty acid ester containing 40 carbon atoms; 3) vitamins; 4) and an antioxidant if required. The whole of the vegetable origin fatty substance composition is referred to as "chelonine." In addition to further describing and defining the fatty acid esters containing 40 carbon atoms, the vitamins and the antioxidant, Bosserelle also further defines the fatty acid triglycerides. The triglycerides are, of course, esters of a fatty acid(s) and glycerol where all three hydroxyl groups of glycerol are esterified with a fatty acid of varying carbon chain length. In Bosserelle, the fatty acid composition of the glycerol esters are described as comprising varying percentages of myristic acid, palmitic acid, stearic acid, linoleic acid, linolenic acid, and oleic acid. Each of these acids, by definition, is esterified with glycerol to afford the fatty acid triglyceride portion of the vegetable origin fatty substance composition.

It should be noted in Example 1, which is the only example of a shampoo,

chelonine is present at 0.1 percent by weight of the total weight of the composition. As a result, although oleic acid may be present in an esterified form with glycerol, the only working example provides the chelonine composition in shampoo at a significantly reduced percentage by weight than as mentioned by the Examiner. In addition to shampoo compositions, chelonine is said to be useful in face, hand and body milk and cream, sunscreen cream, and anti-wrinkle cream cosmetic compositions

Applicants respectfully contend there is no teaching or suggestion that supports the selection of oleic acid in the absence of being esterified with glycerol along with other fatty acids, removing it from the shampoo composition, and using it in the compositions of the present invention, or in the 1,4-diaryl-2(or 2,3)-fluoro or difluoro-2-butene compound containing compositions of Watson et. al. as a single element.

Reference JP 03251520 generally discloses a composition for shampoo containing at least four components; (1) one or more ampholyte surfactants; (2) one or more nonionic surfactants; (3) one or more of silicon derivatives of dimethyl polysiloxane, methlyphenyl polysiloxane, fatty acid-modified polysiloxane, aliphatic alcohol-modified polysiloxane, polyoxy alkylene-modified polysiloxane, amino-modified polysiloxane and cation-modified polysiloxane; and (4) an oil-component of hydrocarbons. More particularly, component (1) is betaine-type (carboxy betaine or sulpho betaine), or amide betaine surfactant; (2) is polyoxy ethylene alkyl ether, alkyl allyl, polyoxy ethylene ether, or polyoxy ethylene alkyl amine; (3) is polyoxy alkylene-modified polysiloxane having an average molecular weight of 3000 or more; and (4) is an animal or vegetable oil (such as corn oil, olive oil, or mink oil, ester oil such as isopropyl myristate or isopropyl palmitate, or hydrocarbons such as fluid paraffin or squalene). Even more particularly, in an example, imidazolinium betaine (10 weight percent), polyoxy ethylene (10 mol) nonyl phenyl ether, fluid paraffin, dimethyl polysiloxane, and water are formed into a shampoo. Clearly, the component (4) used in the example was drawn from hydrocarbons oil component group rather than animal oil, vegetable oil, or ester oil.

Applicants respectfully contend there is no teaching or suggestion that supports the selection and use of isopropyl myristate from the four-component composition of JP '520 from among the vast groups of components for agents generally described as useful in the shampoo compositions and combine it with further elements to arrive at the presently claimed invention.

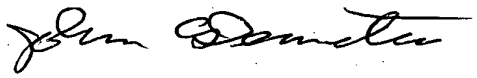
Applicants respectfully contend the prior art references as applied by the Examiner require a selective combination from among isolated disclosures in the prior art with no teaching or suggestion of preferences for any of those elements in order to approach arriving at Applicants' claimed invention.

Applicants respectfully contend the Examiner has picked and chosen non-preferred elements from prior art compositions to arrive at an obviousness rejection in the

present case. None of the references contain a teaching or suggestion that supports the selection and use of the individual elements with an expectation of success to achieve the presently claimed combination.

In view of the previous amendments to the claims and the remarks made herein, Applicants respectfully favorable reconsideration of this application.

Respectfully submitted,



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